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ABSTRACT

Designed for use in the junior high school curriculum, two lessons involve students in the structure and procedures of the jury system as it functions within the court system. Although intended for use with a slide program and computer software program, activities in the teaching guide can be used independently. For each lesson, background information, statement of purpose, vocabulary words, student activities, and student hand-outs are provided. Lesson one, which focuses on the jury as part of the judicial process, includes the historical development of the right to trial by jury and a description of the North Carolina Court System. Emphasis is placed on distinguishing between civil, criminal, and juvenile cases and the differences between issues of fact and issues of law. Through simulations, observations, and interaction with community resources suggested in lesson two, students learn about jury selection and participation, with an emphasis on the deliberation process. Students also learn about the selection process in other countries, while studying about the historical background of the selection and deliberation process in the United States. Emphasis is placed on guarantees of an impartial jury of one's peers, with reference to federal and state cases which deal with these issues. Additional resources include a copy of the jury education film-strip script, a list of related publications, and guidelines for resource persons. (LH)

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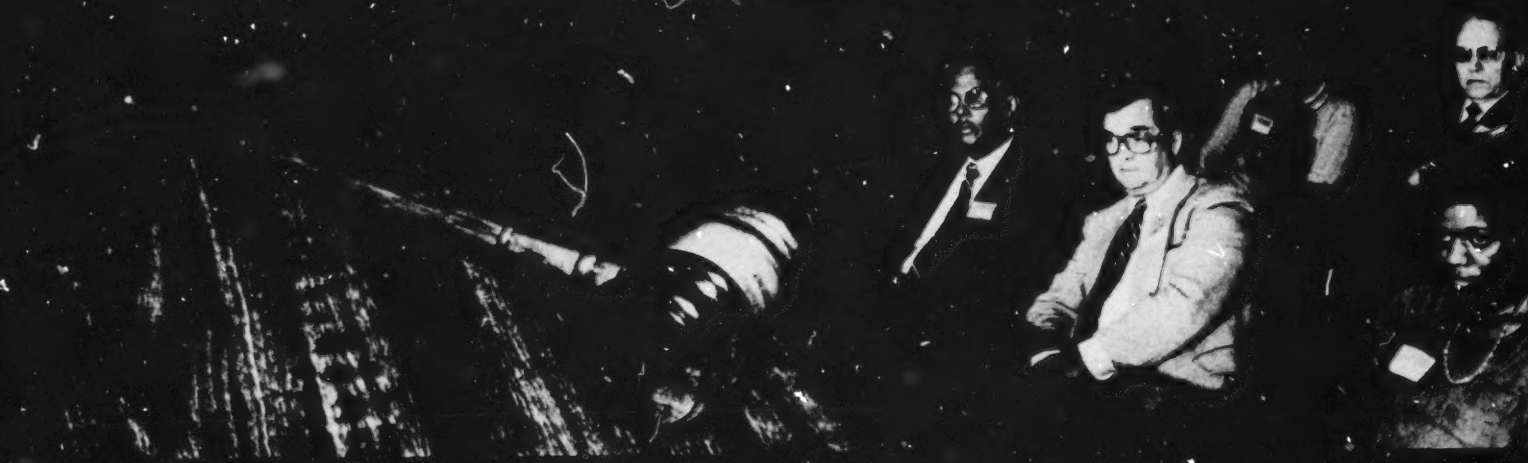
Teaching about Our Jury System

Teaching Guide Unit 1



TEACHING ABOUT OUR JURY SYSTEM

UNIT ONE

OUR *RIGHT* TO AN IMPARTIAL JURY OF OUR PEERS

OUR *RESPONSIBILITY* TO SERVE AS AN IMPARTIAL FACTFINDER WHEN CALLED FOR JURY SERVICE

A THREE PART EDUCATIONAL PROGRAM INCLUDING A FILM STRIP,

A TEACHING GUIDE AND COMPUTER SOFTWARE

TEACHING ABOUT OUR JURY SYSTEM

Unit One

Our *RIGHT* to an Impartial Jury of Our Peers
Our *RESPONSIBILITY* to Serve As an Impartial Factfinder
When Called to Jury Service

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INTRODUCTION

Thomas Jefferson once said that the jury system was "the only anchor ever imagined by man by which a government can be held to the principles of its constitution." For the average citizen to participate in our government, there are three avenues: voting, military service, and jury service.

The purpose of this three-part teaching package on the jury system is to enable educators to instruct students about the practical and functional aspects of the jury system and to address the conceptual and constitutional issues surrounding the system. This teaching package includes a 14-minute film strip modeled after an actual North Carolina jury orientation slide program, a Teacher's Guide, and a computer software program designed to reinforce and support the educational process. There are two separate units to the teaching package. Unit One is designed for use in the junior high school curriculum, and Unit Two is suggested for use in the senior high school. The same film strip is used for both units. Each unit has its own Teacher's Guide and software program.

Not only are Americans guaranteed the right to trial by jury in both criminal and civil cases through the Sixth and Seventh Amendments of the United States Constitution (applied to the states through the Fourteenth Amendment), but in most states, everyone 18 or older has a responsibility to serve on one of those juries. The right to jury trial in North Carolina is reinforced through Article I, Sections 24 and 25 of the State Constitution, and the responsibility to serve is stated in Article I, Section 26 and includes those individuals 18 years of age and older.

PROGRAM DESIGN

Utilizing the film strip, the Teacher's Guide (Unit One), and the computer software, the following two lessons will involve students in the structure and procedures of the jury system as it functions within the court system. Who does what, when, how? What is it like to be a member of the jury? How are people selected to serve? How do juries arrive at their verdicts? Students will also learn about the historical development of the right to trial by jury.

These structural and developmental aspects of the jury system will be related to North Carolina history and procedures, providing students with the opportunity to contrast their state's practices with other states and countries. These lessons incorporate classroom instruction with community interaction. Students will learn through experience what it is like to be a juror and will meet people who are involved with the court system.

SKILL DEVELOPMENT

Specific skills will be developed and reinforced through this learning process. Problem-solving skills will be reinforced through identifying conflicts in court rulings regarding the jury system, by locating and acquiring information needed to solve problems through observations, questions, and the use of prepared materials. Students will develop and reinforce self-management skills by becoming aware of the thoughts and feelings of others during jury deliberation, by accepting diversity and

conflict among people as inevitable and natural, and by learning how to resolve and manage conflicts.

Students will reinforce their abilities to participate in group activities by: (1) listening accurately to verbal messages during court testimony; (2) by interpreting feelings as expressed by tones and actions of others; (3) by initiating ideas which reflect verbal and non-verbal information; (4) by negotiating differences with other students; (5) by becoming involved with members of the community; and (6) by participating in the democratic procedures that are fundamental to the jury process. Students will learn to distinguish between facts and inferences and to apply their common sense to jury deliberations in the cases which they experience or observe.

Supreme Court Justice William O. Douglas once wrote of the jury, "It is the one governmental agency that has no ambition. It is as human as the people who make it up. It is sometimes the victim of passion. But it takes the sharp edge off the law and uses conscience to ameliorate a hardship. Since it is of and from the community, it gives the law an acceptance which verdicts by judges cannot do."

It has been said of a jury that twelve strangers meet by chance in this strange process, learn to work together, reason together, and finally reach a conclusion that may be crucial to the lives of others. When you achieve this, you feel you have really accomplished something. It brings out the best in most people. The simulations, discussions, role-playing activities, and observations in the two lessons are designed to provide students with the jury experience.

As a right and a responsibility of American citizenship, it is critical that students understand the jury system and experience the process so that they will be prepared to serve when called and will understand the value of the right to trial by jury if ever they are placed in a position to be judged by their impartial peers. Students receive information about criminal and civil jury trials almost daily through the news media. Before they graduate from high school, they could be called to serve on a jury as actual participants in our democratic system of government. These lessons will help students to understand the media accounts of cases and will prepare them for effective jury participation.

LESSON COMPONENTS

The lessons include commentary and background information on each topic which can be shared with students. The purpose and objectives of each lesson are outlined, including a vocabulary list with definitions. The film strip should be shown after the first lesson is completed and can be shown again during your study of the jury system whenever you want to refer back to specific aspects of the visual presentation. The computer software allows students individually to reinforce their vocabulary, their problem-solving skills, and expand their knowledge of the courts and the jury system.

Each lesson includes student activities and incorporates community resources which are applicable in the classroom or at the courthouse. The student handouts can be duplicated for group or individualized assignments. A separate instructional booklet accompanies the computer software.

LESSON CONTENT

Lesson One is entitled "The Jury System As Part of the Judicial Process" and includes the historical development of the right to trial by jury with an emphasis on the North Carolina historical development of the jury system. A description of the North Carolina Court System including the trial and appellate levels focuses on the role and responsibilities of juries at the trial level. Emphasis is placed on distinguishing between civil, criminal, and juvenile cases and the differences between issues of fact and issue of law. Students will gain a foundation of knowledge on the historical development and present structure and function of the jury system in the United States and in North Carolina.

Lesson Two is entitled "Jury Selection and Participation." Through simulations, observations, and interaction with community resources, students will learn about jury selection and participation with an emphasis on the deliberation process. Students will learn about the selection process in other countries while studying about the historical background of the selection and deliberation processes in the United States and North Carolina. Emphasis is placed on guarantees of an impartial jury of one's peers with references to federal and state cases which deal with these issues.

RESOURCES

The Resource section of the Teacher's Guide includes a bibliography of books and magazine articles which can be incorporated into your study of the jury system. The list of classroom texts which has sections on the courts and juries is also included. A copy of the film strip script has been added for easy reference to statements and terms. A page of instructions for effective use of resource people is included. These resources can be utilized for student activities, extra credit research, and expanded studies on the jury system.

CONCLUSION

This three-part teaching package on the jury system is available to all North Carolina public, private, and parochial school systems through the generous support of the North Carolina Administrative Office of the Courts and Phi Alpha Delta Law Fraternity International and its Juvenile Justice Program located in Washington, D. C. For additional information, please contact the Social Studies Department of the North Carolina Department of Public Instruction or the Administrative Office of the Courts in Raleigh, North Carolina.

LESSON ONE

THE JURY AS PART OF THE JUDICIAL PROCESS

Background Information

The right to trial by an impartial jury of one's peers has been a part of the North Carolina Court System since the first courts were established under the Fundamental Constitutions of 1669. North Carolina has been a pioneer and a pacesetter in establishing the principles, structures, and procedures which have always guaranteed its citizens their rights to trial by jury in both civil and criminal cases and in outlining procedures for jury selection and participation.

The jury decides the issues of facts surrounding the cases brought before its trial courts. Through the deliberation process, the jury decides whom to believe and which facts are true as they are applied to the law in each case. The judge, on the other hand, decides which laws apply to a given case and instructs the jury on the principles and application of the laws. Juries are not present in courts which hear appeals on issues of law, as the facts in these cases are not in dispute and have already been determined in a trial court by a judge (bench trial) or a jury.

Though the Greeks originated trial by jury more than 400 years before Christ, when 100 to 2,000 citizens passed judgment on the accused, the modern use of juries began with an order by Henry II of England in 1166. The King said that a litigant in a dispute about title to land could summon a royal jury. The men on the jury were called because they knew the facts in the disputed case and were rejected if they did not. The litigant won when he got 12 oathes.

This was the origin of the requirement that 12 jurors be used and their findings be unanimous. This requirement is still in effect in North Carolina criminal trials today, even though many states now allow less than unanimous verdicts and as few as six people on a jury. In North Carolina six-person jury trials are allowed in civil cases. Federal courts still require unanimous 12-person juries in criminal cases.

The right to trial by jury was formally articulated in the Magna Carta, a charter of rights signed by King John of England in 1215. Procedures have changed gradually so that today a person with prior knowledge of the facts in a case probably would not be permitted to serve as a juror.

The three general purposes of the jury today are: (1) to serve as an arbiter regarding conflicting facts and evidence presented at criminal or civil trials; (2) to provide a means by which community values and sentiments are injected into the process; and (3) to help to increase the public's acceptability of legal decisions.

Over the years courts have devised many techniques for assuring that a jury is impartial and represents the community. The right to a trial of your peers doesn't mean you have the right to a jury of people just like yourself. A female defendant can't have an all-woman jury. Rather, a jury of your peers means a representative selection of members of the community.

People are selected for jury duty through various lists. Some states use voter lists, welfare rolls, drivers' license lists, and property tax rolls. In North Carolina lists are compiled from voter lists and lists of licensed drivers.

Most jurisdictions have elaborate procedures for selecting a pool of potential jurors that accurately represents the community. However, certain persons are not eligible for jury service; aliens, youths under the age of 18, the aged, and those who can't read and write English. In North Carolina if you reach the age of 65, you can request to be exempt from jury service. Judges and lawyers try to see that persons chosen from these pools of names to serve on a jury are truly impartial. (The jury selection and participation process will be described in Lesson Two).

Though both the United States and North Carolina Constitutions guarantee the right to trial by jury in both criminal and civil cases, juveniles in North Carolina do not have the right to trial by a jury. The United States Supreme Court has ruled that juveniles are not guaranteed this right as stated in the Sixth and Seventh Amendments of the United States Constitution and applicable to the states by the Fourteenth Amendment. The 1971 case which established this principle had its origin in North Carolina. It was argued with a companion case from Pennsylvania by former North Carolina Attorney General Robert Morgan. McKiever V. Penn., 403 U.S. 528 (1971). A lawyer or a judge can locate a copy of the decision if you wish. In preceding United States Supreme Court cases, juveniles have been given all other due process rights guaranteed adults in criminal court. However, Justice Harry Blackmun said "Why have a separate system if all the criminal adjudicature process is to be superimposed upon the juvenile court system."

When the first juvenile court was opened in 1899 in Cook County, Illinois, the purpose was to establish a civil system where juveniles were to be tried not as criminals, but as deliquents, with the state serving a supportive role and not as an adversary. There are four D's to describe the juvenile court: deinstitutionalization, due process, decriminalization, and diversion. The courts ruled that due process was not being denied by not guaranteeing trial by jury. In North Carolina a juvenile becomes an adult in the eyes of the court on his/her sixteenth birthday. Juveniles may be bound over to Superior Court and tried as adults if the crime warrants it.

In the North Carolina case, Barbara Burrus and approximately 45 other black children, ranging in age from 11 to 15 years, were the subject of juvenile court summonses issued in Hyde County in January 1969. In Re Burrus, 275 N.C. 517, 169 S.E.2nd 879 (1969). The charges arose out of a series of demonstrations in the county in late 1968 by black adults and children protesting school assignments and a school consolidation plan. A request for a jury trial in each case was denied. This denial was upheld on appeal in the North Carolina Court of Appeals, the North Carolina Supreme Court, and the United States Supreme Court. As this is a case of national significance with North Carolina roots, it is an interesting case for students to study and review with an attorney or a district court judge who hears juvenile cases who can locate the decisions for you. It also can serve as an example of how a case moves through the court system from trial to appeal.

Even though the courts ruled that this right was not constitutionally guaranteed, the United States Supreme Court went on to say that "if in its wisdom, any state feels jury trial is desirable in all cases, or in certain kinds, there is not impediment to its installing a system embracing that feature, but such is the state's privilege and not its obligation." Numerous states do conduct jury trials in juvenile cases.

Trial by jury for adults has been a right in North Carolina since the adoption of the Fundamental Constitutions of Carolina in 1669. Your selection to serve as a "juryman" was based on the amount of property you owned. In the precinct, or lowest court, no man could be a juryman, unless he owned fifty acres of freehold. In the county court, you had to own at least 300 acres and in the proprietor's court, not less than 500 acres.

The Fundamental Constitutions of 1669 also stated that "Every jury shall consist of twelve men, and it shall not be necessary they should all agree; but the verdict shall be according to the consent of the majority. In Section III it stated that "no cause, whether civil or criminal, of any freeman shall be tried in any court of judicature, without a jury of his peers." With respect to a jury of one's peers, a nobleman could be tried on criminal charges only in the Chief Justice's Court and only by a jury of other noblemen. It is interesting to note that North Carolina changed the verdict rule from majority to unanimous over 100 years later, and this standard remains today.

On August 9, 1776, a call was issued for a constitutional convention. The delegates were elected, and the convention assembled at Halifax on November 12. A Declaration of Rights made by the Representatives of the Freemen of the State of North Carolina stated in Section IX "That no freeman shall be convicted of a crime, but by a unanimous verdict of a jury of good and lawful men, in open court...," and in Section XIV "That in all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people and ought to remain sacred and inviolable."

North Carolina incorporated the principles of the Sixth and the Seventh Amendments to the United States Constitution over 15 years before the Bill of Rights was ratified, but the roots of those principles were planted in the 1669 Fundamental Constitutions of Carolina. The earliest document even provided for the method of selecting jurors, a system which in theory is practiced today. The August 17, 1682, version of the Fundamental Constitutions provided that the names of the freeholders qualified for jury service were to be written on pieces of parchment and put into a box from which a child was to draw the number needed to provide juries.

In the late 17th Century, the chief local governmental agencies were the courts. The precinct courts were to try all civil causes and all criminal causes not punishable by death and not involving nobility. They were to have final jurisdiction in civil causes involving less than 50 pounds sterling and not concerning title to land. In all other causes, either party was to have the right of appeal to the county court. The county courts have five justices with the chief being the "sheriff." These two courts were very similar to the District and the Superior Courts in today's North Carolina system.

During the colonial times, the jury became a symbol of rebellion against the crown. The jury's performance in the trial of John Peter Zenger in New York (1735) stands out because the jury found Zenger not guilty of libel on the grounds that what he had written about the royal governor was true.

The general lack of juries during the British rule of the Colonies is said to have been a contributing cause of the American Revolution. The British Vice-Admiralty courts sat in the American Colonies without juries. The first Congress of the American Colonies, which met in October 1765, recommended trial by jury along with its list of essential rights and liberties. The First Continental Congress (1774) declared "that the respective colonies are entitled to the common law of England and more especially to the great and inestimable privilege of being tried by their peers of the vicinage, according to the course of that law." Thomas Jefferson in the final drafting of the Declaration of Independence wrote of King George II: "He has combined others to subject us to a jurisdiction foreign to our constitution and unacknowledged by our laws, giving his assent to their action of pretended legislation... for depriving us in many cases of the benefits of trial by jury."

However, the English brought the concept of trial by jury to this country when James I granted a charter to the Virginia Company, and the company established the community of Jamestown in 1607. Juries were composed of 12 men, but records show that some contained 13, 14, and even 24. In general, felony trials in those early days were held in one day. When the case was given to the jury, it was locked up without food or water until it reached a verdict. A juryman could not leave his fellow jurors until a verdict was reached, which, as one writer has noted, made prolonged disagreement practically unknown. (The Jury: Its Role in American Society, Rita J. Simon, Lexington Books, Lexington, MA, 1980, page 5).

North Carolina added another historical chapter to the development of the jury system and the principles surrounding its role in the development of the court system as we know it today. In the case of Bayard v. Singleton (1787) a Tory merchant from New Bern had willed some property to his daughter, but the state confiscated it and sold it to someone else. The daughter brought suit, trying to regain control of the property, but lawyers for the other side argued she was a British subject; and under state law, she did not have the right to sue. Then the Superior Court ruled. The judge said the (state) Bill of Rights gave her the right to sue, but the court also said she was an alien and did not have the right to hold land in North Carolina. She got her trial, but the jury took away her land. This Superior Court ruling was the first decision under a written constitution which declared a law unconstitutional (Historic Minutes, WFMY-TV) and established the principle that the courts had the power to overrule any law passed by a legislative body if the law could be interpreted as unconstitutional. This general power of judicial review was established in the federal courts in the famous case, Marbury v. Madison in 1801.

Citizens of North Carolina can take pride in the contributions of their forefathers in the establishment of the solid judicial system in this state and in the nation, especially as we prepare to celebrate the bicentennial of the United States Constitution in 1987 and the Bill of Rights in 1991. In order to participate in the judicial system as a member of a jury, citizens need to understand the structure and procedures of today's system. A brief summary of the North Carolina court system follows: however, there are student handouts which include a chart of the flow of cases through the North Carolina system and a sketch of a courtroom, showing the different responsibilities of the other people in the courtroom during a trial. The film strip script provides additional information. These resources are contained in this Teacher's Guide.

The structure of the North Carolina court system was established by the state constitution which provides for the General Court of Justice which "shall constitute a unified judicial system for the purposes of jurisdiction, operation, and administration and shall consist of an Appellate Division, a Superior Court Division, and a District Court Division."

The Appellate Division is comprised of the Supreme Court and the Court of Appeals. These courts are composed of judges and do not involve juries because these courts deal with issues of law and not issues of fact. Juries determine issues of fact at the Superior and the District Court levels. There are seven Supreme Court Justices and twelve Court of Appeals Judges.

The Superior Court Division is comprised of the superior courts which hold session in the county seats of the 100 counties in the state. The counties are grouped into judicial districts (34 at the present time), and one or more superior court judges are elected for each of the judicial districts. There are 68 superior court judges in the state. The superior courts conduct 12-person jury trials in criminal and civil cases. Persons may waive this right to a jury trial only in civil cases. They may not waive this right in criminal cases. In January, 1983, North Carolina's Governor James B. Hunt, recommended that the use of juries be reduced in certain types of cases and that defendants be given the right to voluntarily waive their right to a trial by jury in criminal cases.

The District Court Division is comprised of the district courts which are located in each county. There are 142 district court judges in North Carolina. These judges conduct juvenile hearings, criminal matters without a jury, and certain civil cases before a jury. However, in criminal matters a person can appeal to the superior court for a jury trial following a hearing in district court. This is called trial de novo because the case is tried again as if it were a new trial. Misdemeanors, or less serious criminal offenses, are tried in the district court while felony cases, those crimes which generally carry two years or more prison terms as punishment if convicted, are heard in superior court.

Even though the right to trial by jury has been a fundamental right since the drafting of the Fundamental Constitutions of 1669 in North Carolina and preserved in the United States Constitution, most criminal and civil cases never end up being heard by juries. Ninety percent of all United States cases never come before a jury and between 1/4 and 1/2 that do go before a jury end up being settled out of court, and five percent

end in hung juries (those unable to reach a verdict). Despite these figures, 3,000,000 citizens are called for jury service each year in this country, and of that number, about 60 percent do get on a jury (Time, 9/28/81, page 45).

North Carolina and several other states are trying a new system of jury service called "one trial/one day." This new system involves more citizen participation and makes jury service more convenient as persons are away from home, school, or jobs for a shorter period of time. This procedure means more citizens are given the responsibility to serve on a jury but for a shorter period of time. In most states citizens are still called to serve for one to four weeks, but in North Carolina you serve for one day or for one trial in some counties; otherwise, you are called to serve for one week.

Even though 90 percent of all cases in this country never come before a jury, the United States still accounts for 80 percent of all the jury trials in the world. Many countries, including England, have reduced or eliminated the use of citizen juries.

The famous French scholar and politician, Alexis de Tocqueville, who spent a great deal of time studying our system of government over 100 years ago, once wrote: "All the sovereigns who have chosen to govern by their own authority, and to direct society instead of obey its direction, have destroyed or enfeebled the institution of the jury. The Tudor monarchs sent to prison jurors who refused to convict, and Napoleon caused them to be selected by his agents." He went on to say, "I think that the practical intelligence and political good sense of the American are mainly attributed to the long use that they have made of the jury...thus, the jury which is the most energetic means of making the people rule, is also the most efficacious means of teaching it how to rule well."

North Carolina history demonstrates the important role its citizens have played in establishing and preserving the right to trial by jury and focuses on the responsibility of its citizens to serve as impartial jurors when called to judge their peers. Students will develop a historical appreciation for the role played by their forefathers while acquiring the knowledge and skills to serve as effective jurors in the future through these lessons.

Purpose:

The purpose of Lesson One is to understand and appreciate the historical development and present function and structure of the jury system as it relates to the overall court system in North Carolina and the United States.

Objectives:

To understand the historical roots of the jury system and the right to trial by jury.

To describe the flow of cases through the North Carolina Court System with emphasis on how and where the jury is used in that system.

Objectives (continued)

To define the composition and function of a jury.

To analyze the difference between a civil case and a criminal case with emphasis on the responsibility of the jury in each.

To differentiate between an issue of law and an issue of fact.

Vocabulary Words:

Jury:	A group of citizens legally chosen, sworn to hear the facts in a case, and to render a verdict according to those facts.
Trial:	An examination of facts usually involving testimony before a court according to established procedures.
Felony:	A serious crime punishable by a fine and/or a prison sentence of over two years in North Carolina. (In many states it's one year.)
Misdemeanor:	An offense, less serious than a felony, that is punishable by a fine and/or imprisonment of less than two years in North Carolina. (In many states, it's one year.)
Civil Suit:	A case brought to court by individuals or groups to recover money or property or to protect or enforce a civil right.
Criminal Case:	A trial involving person(s) accused by the government of violating public laws resulting in the commission of a crime.
Issues of Fact:	Those disputed issues that are heard in a trial court before a jury or before a judge only. What really happened? What evidence is true? What evidence is false?
Issues of Law:	Those issues that are heard before an appellate court without a jury. If individuals, groups, or the government feel that certain rights have been denied, that the law has not protected you the way in which you feel it was intended, or you believe the judge made an error during the trial, these issues are reviewed by appellate court judges.
Judge:	Presides over the trial and instructs the jury about the laws that apply to the case. If there is no jury, the judge decides the facts also. Appellate court judges hear arguments presented by attorneys representing each side of the case, decide the issues of law involved, and do not consider questions of fact.

Vocabulary Words (continued)

Defense Counsel:	As the attorney representing the defendant, his/her responsibility is to present evidence and arguments on behalf of the defendant.
Prosecutor:	A representative of the government who presents evidence in a criminal trial to prove that the defendant committed the crime as charged.
Defendant:	Person accused of committing a crime or against whom a civil action is filed.
Plaintiff:	Person who brings a civil suit to court.
Witness:	Person who testifies under oath to facts and issues relevant to the alleged wrongdoing.
Probation Officer:	Provides information on a defendant in court and supervises guilty defendant if placed on probation as a term of punishment.
Clerk:	Acts as a court record keeper, reads the complaint, and administers oathes.
Bailiff:	Person who maintains order and decorum in the courtroom and is responsible for all prisoners while in the courthouse.
Supreme Court:	Highest court in North Carolina and hears cases involving issues of law on appeal from the superior court and the court of appeals, major questions of constitutional law, legal questions, and appeals in criminal cases which deal with the death penalty or life imprisonment. It hears only issues of law without a jury.
Court of Appeals:	Intermediate appellate court which hears cases appealed from superior court or district court dealing with issues of law, not issues of fact. It hears cases of lesser significance than does the supreme court. There are no juries in this court.
Superior Court:	Conducts trials in all felony cases and civil cases in excess of $10,000 damage claims by plaintiff.

Vocabulary Words (continued)

District Court:	Conducts trials in misdemeanor cases, civil cases of $10,000 or less damage claims by plaintiff, juvenile hearings, and domestic relations cases.
Juvenile Hearings:	In North Carolina is part of the district court; a youth under the age of 16 can be found delinquent or not delinquent of a crime which is treated as a civil (non-criminal) matter without a jury.

STUDENT ACTIVITIES

Comments: The eight student handouts which follow should be incorporated into student activities along with the computer software activities. The student handouts can be used to reinforce the teaching about our jury system and to facilitate discussions with resource people. The following suggested activities are designed to directly involve students in participatory learning and skill development.

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1. Ask students to watch a television news program or listen to a radio news report. Ask them to write down the legal terms that are used, the type of case which is being reported, and whether the case would be heard by a jury. Usually more than one criminal or civil case is reported on a given news program. Students can either focus on one case or try to record a variety of cases reported over several days.

2. Invite your local clerk of superior court to visit your class. Ask him/her to discuss the function of the court system and the procedures used in the selection of those called for jury service from your community.

3. Ask a trial attorney to speak to your class about the different types of cases that come before a trial court, explaining the differences between civil cases and criminal cases. Ask him/her to bring examples of appellate court decisions or copies of the actual supreme court decisions referred to in this lesson. Ask students to discuss the issues involved in the decisions.

4. Tour your local district court and arrange to meet with a judge who hears juvenile cases. Discuss the difference between juvenile hearings and adult court. Discuss the pros and cons of not having a jury hear juvenile cases.

5. Interview one of your local prosecutors and write a report on how a criminal case is brought to court asking him/her to comment on the use of juries in criminal cases.

6. Arrange to spend a day in superior court or district court. If possible, divide your class so that half of the students observes a district court criminal session which does not have juries and the other half observes a superior court criminal session. Ask students to compare and contrast the procedures as they relate to the outcome of the case. What are the advantages and disadvantages of a trial by jury? If a resource person such as an attorney or a paralegal can accompany your class to court, this resource person can provide comments during your discussions and answer students' questions. Also, arrange for the judge(s) in the session(s) you are observing to meet with your students during a court recess.

THE

English-mans

RIGHT.

A

DIALOGUE

BETWEEN

A *BARRISTER* at *LAW*,

AND A

JURY-MAN:

Plainly setting forth,

I. The Antiquity
II. The excellent designed use } of JURIES,
III. The Office and just Priviledges }

By the Law of England

LONDON: Printed for *Richard Janeway*, in *Queens-head Alley* in *Paternoster-Row*. 1680.

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JURY QUIZ

Name of Student _____ Class/Period _____ Teacher's Name _____

THE FOLLOWING TRUE/FALSE QUIZ IS DESIGNED TO MEASURE STUDENTS' KNOWLEDGE AND AWARENESS OF THE JURY SYSTEM AS A PART OF THE JUDICIAL PROCESS. PLEASE CIRCLE YOUR ANSWER IN THE LEFT-HAND MARGIN.

T F 1. Persons over the age of 17 can be called for jury duty in North Carolina.

T F 2. Only those people with high school diplomas can serve on jury duty.

T F 3. All juries in North Carolina must reach unanimous verdicts.

T F 4. The judge decides which laws apply to each case before the trial court.

T F 5. In North Carolina a citizen can waive the right to a jury trial in a criminal court.

T F 6. The Supreme Court of North Carolina has 12-person juries in all cases.

T F 7. A prosecutor presents evidence on behalf of the defendant in criminal cases.

T F 8. There are no jury trials in district court.

T F 9. Members of a jury must decide what facts are true and which are false in the case before them.

T F 10. Most cases in North Carolina are heard by a jury.

T F 11. A jury of your peers means that people just like you should sit on the jury if you are charged with a crime and your case is heard in court.

T F 12. Juveniles (those under the age of 16) have a right to trial by jury.

T F 13. North Carolina was one of the first states to guarantee right to trial by jury in its Constitution.

T F 14. The idea of trial by jury originated in the United States.

T F 15. A felony is a minor offense.

T F 16. Civil cases are those brought to court by individuals or groups, and not by the government.

T F 17. If you feel certain rights have been denied, your case could be heard by an appellate court.

T F 18. In North Carolina if the jury finds someone guilty of robbery, the jury also determines the punishment.

T F 19. The United States Constitution guarantees you the right to trial by jury in civil and criminal cases.

T F 20. The United States Supreme Court has said that unanimous verdicts are required in all state cases.

ANSWERS TO TRUE/FALSE QUIZ: Students can find these answers in the background information provided in the lessons, or teachers can discuss the answers based on the following comments:

1. T Persons 18 or older can be called for jury duty; however, they may be excused from serving for various reasons.

2. F Education is not a requirement for jury service; however, persons must be able to understand the English language.

3. T However, this is not true in all states but is true for federal criminal cases.

4. T The jury's role is to determine which facts are true.

5. F All criminal cases heard in superior court are before a 12-person jury.

6. F There are no juries in courts where issues of law are argued and issues of fact have already been determined in the trial court.

7. F Prosecutors represent the government and present evidence against the defendant.

8. F There are 6-person and 12-person juries in civil cases, but not criminal cases.

9. T The judge deals with issues of law and the jury, the issues of fact.

10. F Most cases are either settled out of court or guilty pleas to lesser charges are entered.

11. F A jury of your peers means a cross section of your community.

12. F It is optional for states, and North Carolina has chosen not to provide jury trials for juveniles.

13. T The right was guaranteed in the Fundamental Constitutions of 1669.

ANSWERS TO TRUE/FALSE QUIZ (continued)

14. F Trial by jury as we know it today originated in England; however, there were jury trials in Greece 400 years before Christ.

15. F A felony is a major crime; a misdemeanor is a minor offense.

16. T Civil issues are not crimes against the state but can be wrongful acts against individuals.

17. T Issues of law are heard by appellate courts like the North Carolina Court of Appeals or the Supreme Court where lawyers argue before the judge(s).

18. F The judge determines the punishment, except 13 states require jurors to pass sentence on those they have convicted of crimes punishable by death.

19. T The Sixth and the Seventh Amendments of the United States Constitution guarantee the right to trial by jury in criminal and civil cases, respectfully, and this right is applicable to the states by the 14th Amendment.

20. F In 1972 the United States Supreme Court determined that unanimous verdicts were not required. Johnson v. Louisiana, 406 U.S. 356 (1972). Apodaca v. Oregon, 406 U.S. 404 (1972). Cases are available in law offices or libraries.

THERE ARE NO RIGHT OR WRONG ANSWERS TO THIS TEST. IT IS DESIGNED TO MEASURE YOUR FEELINGS ABOUT FOUR COMPONENTS OF THE JUDICIAL SYSTEM. (PUT A CHECK ON THE LINE WHICH REFLECTS YOUR FEELINGS.)

LAWYERS

GOOD	___	___	___	___	___	___	___	BAD
CRUEL	___	___	___	___	___	___	___	KIND
HONEST	___	___	___	___	___	___	___	DISHONEST
UNFAIR	___	___	___	___	___	___	___	FAIR
RIGHT	___	___	___	___	___	___	___	WRONG
STRONG	___	___	___	___	___	___	___	WEAK
HARMFUL	___	___	___	___	___	___	___	HELPFUL
FAST	___	___	___	___	___	___	___	SLOW
SMOOTH	___	___	___	___	___	___	___	ROUGH
CHANGING	___	___	___	___	___	___	___	RIGID
PASSIVE	___	___	___	___	___	___	___	ACTIVE
SOFT	___	___	___	___	___	___	___	HARD

JURIES

GOOD	___	___	___	___	___	___	___	BAD
CRUEL	___	___	___	___	___	___	___	KIND
HONEST	___	___	___	___	___	___	___	DISHONEST
UNFAIR	___	___	___	___	___	___	___	FAIR
RIGHT	___	___	___	___	___	___	___	WRONG
STRONG	___	___	___	___	___	___	___	WEAK
HARMFUL	___	___	___	___	___	___	___	HELPFUL
FAST	___	___	___	___	___	___	___	SLOW
SMOOTH	___	___	___	___	___	___	___	ROUGH
CHANGING	___	___	___	___	___	___	___	RIGID
PASSIVE	___	___	___	___	___	___	___	ACTIVE
SOFT	___	___	___	___	___	___	___	HARD

COURTS

GOOD	___	___	___	___	___	___	___	BAD
CRUEL	___	___	___	___	___	___	___	KIND
HONEST	___	___	___	___	___	___	___	DISHONEST
UNFAIR	___	___	___	___	___	___	___	FAIR
RIGHT	___	___	___	___	___	___	___	WRONG
STRONG	___	___	___	___	___	___	___	WEAK
HARMFUL	___	___	___	___	___	___	___	HELPFUL
FAST	___	___	___	___	___	___	___	SLOW
SMOOTH	___	___	___	___	___	___	___	ROUGH
CHANGING	___	___	___	___	___	___	___	RIGID
PASSIVE	___	___	___	___	___	___	___	ACTIVE
SOFT	___	___	___	___	___	___	___	HARD

JUDGES

GOOD	___	___	___	___	___	___	___	BAD
CRUEL	___	___	___	___	___	___	___	KIND
HONEST	___	___	___	___	___	___	___	DISHONEST
UNFAIR	___	___	___	___	___	___	___	FAIR
RIGHT	___	___	___	___	___	___	___	WRONG
STRONG	___	___	___	___	___	___	___	WEAK
HARMFUL	___	___	___	___	___	___	___	HELPFUL
FAST	___	___	___	___	___	___	___	SLOW
SMOOTH	___	___	___	___	___	___	___	ROUGH
CHANGING	___	___	___	___	___	___	___	RIGID
PASSIVE	___	___	___	___	___	___	___	ACTIVE
SOFT	___	___	___	___	___	___	___	HARD

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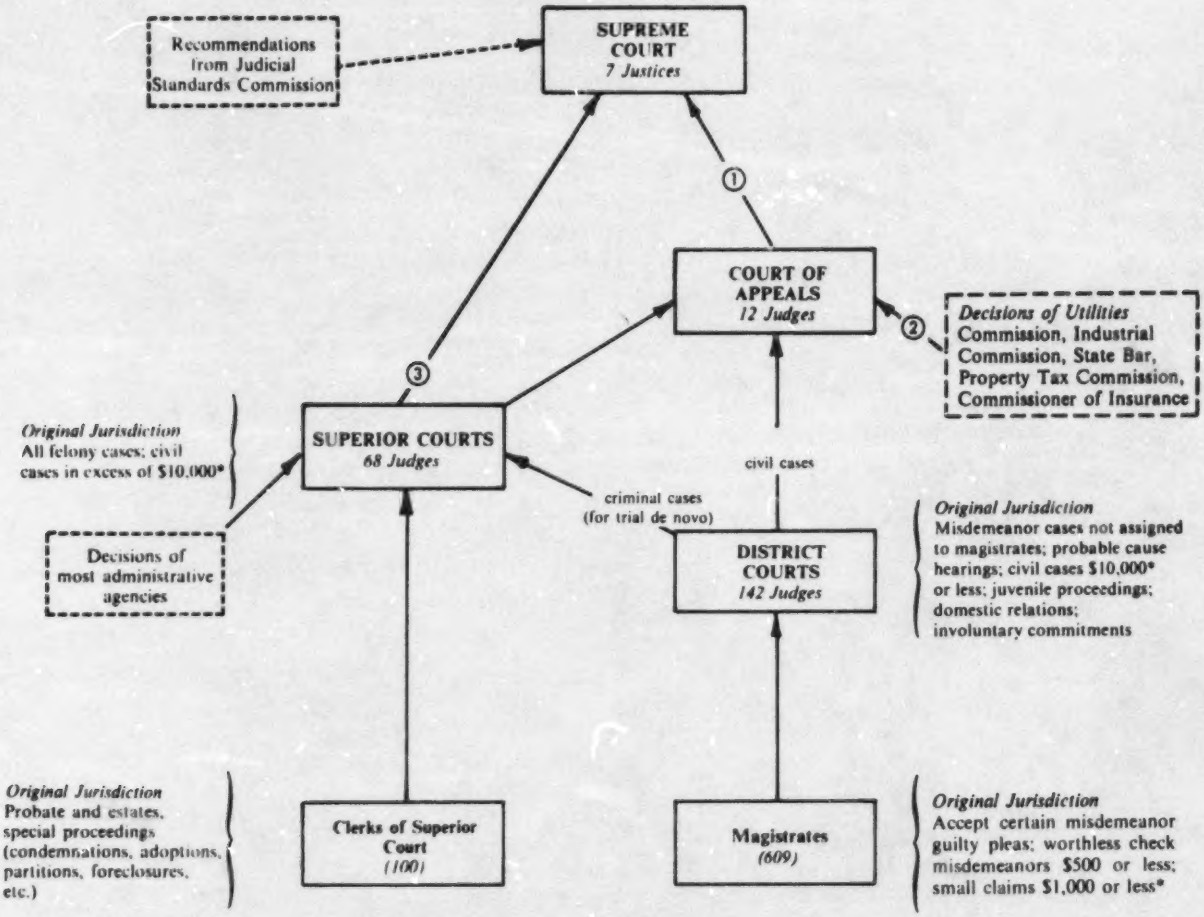
THE PRESENT COURT SYSTEM

Original Jurisdiction and Routes of Appeal


Recommendations from Judicial Standards Commission
SUPREME COURT
7 Justices
①
COURT OF APPEALS
12 Judges
②
Decisions of Utilities Commission, Industrial Commission, State Bar, Property Tax Commission, Commissioner of Insurance
③
Original Jurisdiction
All felony cases; civil cases in excess of $10,000*
SUPERIOR COURTS
68 Judges
civil cases
criminal cases (for trial de novo)
Decisions of most administrative agencies
DISTRICT COURTS
142 Judges
Original Jurisdiction
Misdemeanor cases not assigned to magistrates; probable cause hearings; civil cases $10,000* or less; juvenile proceedings; domestic relations; involuntary commitments
Original Jurisdiction
Probate and estates, special proceedings (condemnations, adoptions, partitions, foreclosures, etc.)
Clerks of Superior Court
(100)
Magistrates
(609)
Original Jurisdiction
Accept certain misdemeanor guilty pleas; worthless check misdemeanors $500 or less; small claims $1,000 or less*

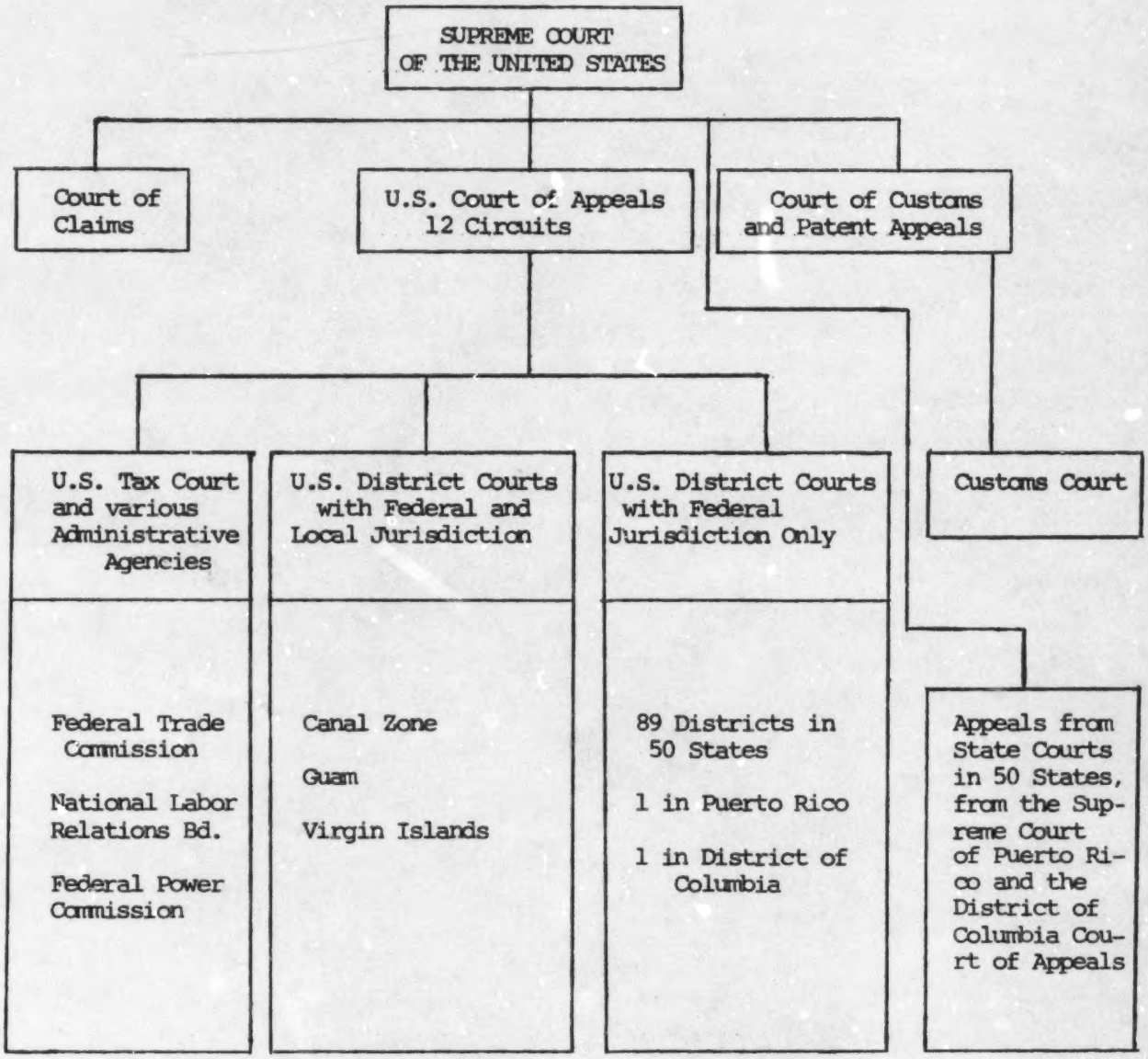
(1) Appeals from the Court of Appeals to the Supreme Court are by right in Utilities Commission general rate cases, cases involving constitutional questions, and cases in which there has been dissent in the Court of Appeals. In its discretion, the Supreme Court may review Court of Appeals decisions in cases of significant public interest or cases involving legal principles of major significance.

(2) Appeals from these agencies lie directly to the Court of Appeals.

(3) As a matter of right, appeals go directly to the Supreme Court in criminal cases in which the defendant has been sentenced to death or life imprisonment, and in civil cases involving the involuntary annexation of territory by a municipality of 5,000 or more population. In all other cases appeal as of right is to the Court of Appeals. In its discretion, the Supreme Court may hear appeals directly from the trial courts in cases where delay would cause substantial harm or the Court of Appeals docket is unusually full.

Note: The district and superior courts have concurrent original jurisdiction in civil actions (G.S. 7A-242). However, the district court division is the *proper* division for the trial of civil actions in which the amount in controversy is $10,000 or less; and the superior court division is the proper division for the trial of civil actions in which the amount in controversy exceeds $10,000 (G.S. 7A-243). (The change from $5,000 to $10,000 was made effective July 1, 1982.)

THE UNITED STATES COURT SYSTEM


SUPREME COURT OF THE UNITED STATES
Court of Claims
U.S. Court of Appeals 12 Circuits
Court of Customs and Patent Appeals
U.S. Tax Court and various Administrative Agencies
U.S. District Courts with Federal and Local Jurisdiction
U.S. District Courts with Federal Jurisdiction Only
Customs Court
Federal Trade Commission
National Labor Relations Bd.
Federal Power Commission
Canal Zone
Guam
Virgin Islands
89 Districts in 50 States
1 in Puerto Rico
1 in District of Columbia
Appeals from State Courts in 50 States, from the Supreme Court of Puerto Rico and the District of Columbia Court of Appeals

U.S. Government Printing Office,
Washington, D.C. 1975 49-600 0

WHO DOES WHAT IN COURT?

MATCH THE PERSONS IN COLUMN 1 WITH THE DUTIES IN COLUMN 2

COLUMN 1	COLUMN 2
JUDGE	Maintains order and decorum in the courtroom.
CLERK	Takes an oath to tell the truth.
PROBATION OFFICER	Decides what laws apply to the case.
DEFENDANT	Reads complaints and administers oathes.
PROSECUTOR	Presents evidence on behalf of the defendant.
DEFENSE COUNSEL	Provides information on each defendant.
WITNESS	May or may not testify on own behalf.
BAILIFF	Tries to prove beyond a reasonable doubt that defendant committed the crime as charged.

Reprint from Courts and the Classroom, 2nd ed. Julie F. Van Camp, LEAD, Inc., Concord, MA, 1982; pg. 142.

CASE ACTIVITIES: CIVIL OR CRIMINAL?

Write the word civil or criminal beside the following cases to show whether the case is civil or criminal.

1. Richard Quinn agreed to mow the Johnson's lawn for five dollars. When he finished the lawn Mr. Johnson would only pay him $3.50.

_____

2. Lisa Harrison was waiting at the bus stop. When the bus arrived a man jumped off and grabbed her pocketbook and ran down the street.

_____

3. Mary Burns was walking through Marshall Fields Department store. As she passed the jewelry counter she picked up two necklaces and a pair of earrings. Then she walked out of the store without paying.

_____

4. Elmer Campbell and Janice O'Brien threw an empty six pack out of their car window.

_____

5. Tom Derby and Fred Johnson bought a used car together. The transmission fell out six blocks away from the used car lot.

_____

6. Tom Burke and Bob Carrier were going to a rock concert fifty miles from the city. They siphoned gasoline from two cars in a parking lot.

_____

7. Grandma Blair and Uncle George sold moonshine to anyone who was foolish enough to buy it.

_____

8. Crazy Eddie lit a match to his own barn to collect the insurance money.

_____

9. Annie Kelley loaned her tape recorder to her friends in a rock group. Her friends accidentally broke the tape recorder.

_____

10. Sol and Stacey took Baby Alice from her mother to collect ransom money.

_____

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Answers to Case Activities Quiz

1. Civil
2. Criminal
3. Criminal
4. Criminal
5. Civil
6. Criminal
7. Criminal
8. Criminal
9. Civil
10. Criminal

TWENTY SCRAMBLES

UNSCRAMBLE AND DEFINE— YOUR COURT VOCABULARY WILL RANK WITH THE EXPERTS.

DEJUG

KLERC

TANDENFED

RESORPUCORT

BAPORNIOT

FEENSED

STWEINS

ROTUC

YURJ

LATRI

SWAL

INPALFITF

SIMMEDRONAE

LICIV

LANIMIRC

LABIFFI

YONLEF

ELINEVUJ

SPAELAP

TASCF

Answers on next page

ANSWERS

TWENTY SCRAMBLES

JUDGE

CLERK

DEFENDANT

PROSECUTOR

PROBATION

DEFENSE

WITNESS

COURT

JURY

TRIAL

LAWS

PLAINTIFF

MISDEMEANOR

CIVIL

CRIMINAL

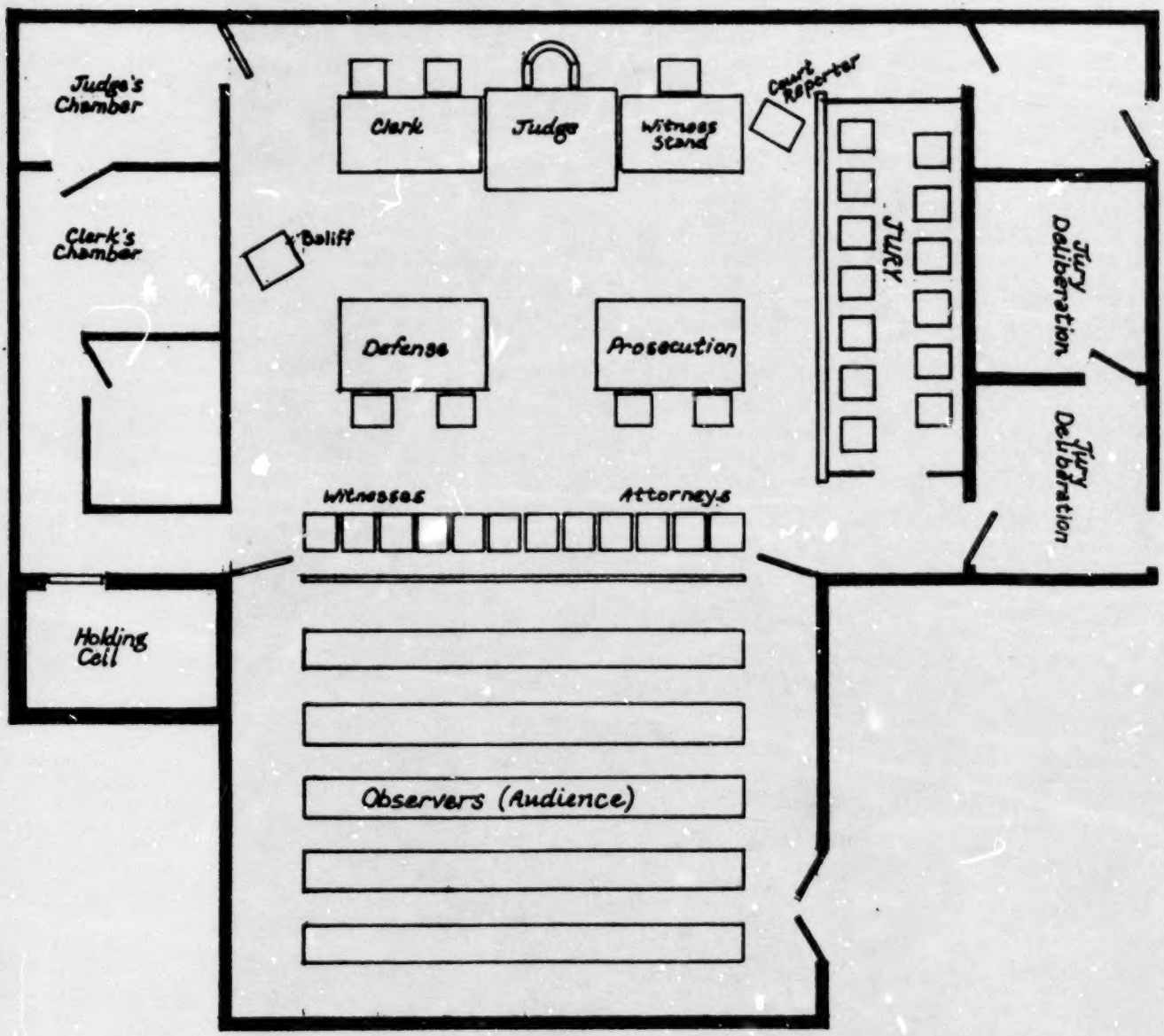
BAILIFF

FELONY

JUVENILE

APPEALS

FACTS


Judge's Chamber
Clerk's Chamber
Clerk
Judge
Witness Stand
Court Reporter
Bailiff
JURY
Jury Deliberation
Jury Deliberation
Defense
Prosecution
Witnesses
Attorneys
Holding Cell
Observers (Audience)

THE FOLLOWING ACTIVITY IS DESIGNED TO HELP STUDENTS UNDERSTAND THE DIFFERENCE BETWEEN ISSUES OF LAW HEARD IN APPELLATE COURTS AND ISSUES OF FACT HEARD IN TRIAL COURTS. CHECK ONE ANSWER. "A" IS FOR APPELLATE COURT: "T" IS FOR TRIAL COURT.

	A	T
1. You believe you have the right to a jury trial in a District Court criminal case.		
2. You have been charged with shoplifting.		
3. You believe your car dealer has not honored your warranty on your new car.		
4. You believe the judge made a mistake in not allowing certain evidence to be presented at your trial.		
5. You believe a new law is unconstitutional.		
6. You have been charged with driving your car while under the influence of alcohol but you believe the charge is wrong.		
7. You believe the jury that heard your case did not represent a cross section of your community.		
8. You believe requiring 12 person, unanimous verdicts denies you a fair hearing.		
9. You feel your neighbor has put his new fence on your property.		
10. You want to appeal the finding of the District Court Judge in your criminal case.		

Answers: (Block out this section when duplicating the above activity for students.)

1. A
2. T
3. T
4. A
5. A
6. T
7. A
8. A
9. T
10. T

L E S S O N T W O

JURY SELECTION AND PARTICIPATION

Background Information

"Why should anyone think that 12 persons brought in from the street, selected in various ways for their lack of general ability, should have any special capacity to decide controversies between persons," asked former United States Solicitor General Erwin Griswold. Yet, more often than not, most observers agree that when jurors are left to apply their experiences and common sense to the evidence presented to them, they render as impartial a brand of justice as is humanly possible. (U. S. News and World Report, November 1, 1982, page 45).

Jurors were not always allowed to apply their own experiences and common sense, however. The jury in the famous 1670 trial of William Penn and William Mead at Old Bailey (Court) in London refused to give a verdict against them for allegedly preaching to an unlawful assembly. The jury was locked up without food for two nights, and jurors were fined for their final verdict of not guilty. Four of the jurors spent months in prison as a result of their verdict. However, the case was later reviewed by an appellate court which ruled in favor of the jurors, establishing the principle that juries could render verdicts according to their convictions.

Sometimes in the United States, many potential jurors are called to the jury box before 12 are chosen. In England the judge calls the first 12 potential jurors and simply asks one question: "Can you give a fair hearing to both the crown and the defense?" If they can, they are impaneled as part of the jury. The questioning process, called voir dire from the French term which means "to tell the truth," in this country is far more elaborate and involves judges and attorneys. The purpose of the voir dire is to determine disqualifications and insure an impartial jury which represents a cross section of the community. It is not to afford anyone an in-depth analysis so he or she can chose a jury that fits some particular mold or pattern that the person desires.

Prospective jurors may be challenged for cause if they exhibit a bias for or against one of the parties. For example, if they are related to one of the parties or the attorneys, or if they stand to benefit directly or indirectly by a decision for one side or the other, or if they have formed an opinion in the case. A certain number of challenges without cause, which are called peremptory challenges, are also allowed each side. In North Carolina the state and the defendant each have 14 peremptory challenges in capital offenses and eight in noncapital offenses. In civil cases each side is allowed eight peremptory challenges.

Jury selection in some very complicated cases can take almost as long as the trial itself. In one California murder trial of three defendants, it took five months to question more than 250 potential jurors. The actual trial took seven months.

In North Carolina the first 12 persons called are examined by the prosecutor, or the plaintiff's attorney in a civil case, for both cause and

peremptory challenges. If challenges are exercised, the person challenged is replaced in the jury box by another potential juror. When the prosecutor or plaintiff's attorney is satisfied, the same process is repeated by the defendant's attorney. If juror replacements are made at this point, the other side gets to pass or reject the replacement(s). This process continues until each side is satisfied or they have run out of challenges.

North Carolina law states that challenges for cause must focus on competence, prejudice, or fairness. The scope of examination of jurors is subject to the sound discretion of the court. State v. Phillips, 300 N.C. 678, 268 S.E.2nd, 452 (1980). The state courts have also ruled that "a defendant is not entitled to a jury of his selection or choice but only to a jury selected pursuant to law and without unconstitutional discrimination against a class or substantial group of the community from which the jury panel is drawn. He has no vested right to a particular juror." State v. Atkinson, 275 N.C. 288, 308, 167 S.E.2nd, 241, 253 (1969).

Some companies now specialize in assisting trial attorneys in applying psychological techniques to determine the type of juror an individual will be. In fact, sometimes "shadow" juries are chosen that reflect similar characteristics to the actual jury. This jury observes the trial and provides feedback to the lawyers trying the case. Critics of these practices feel that it represents an unconstitutional manipulation of the justice system and is a costly process that favors the rich over the poor.

There are numerous social and psychological factors that enter into the selection of a jury. Studies have shown that women are thought to be more sympathetic to the defense, men to the prosecution. The wealthy are thought to be more sympathetic to the prosecution, the poor to the defense. Ethnicity and race are thought to be important, also.

Even as early as 7 B.C., these issues entered into the selection of jurors in Rome. Emperor Augustus issued an edict concerning the selection of jurors which reflected the ethnic problems in those days. His edict stated:

> "A Greek under indictment shall be given the right to decide, the day before the prosecution opens its case, whether he wants his jurors to be all Roman or half Greek; and if he chooses half Greeks, then the balls shall be checked for equal weight (to prevent cheating); and the names shall be written on them, and from one urn the names of the Romans and from the other, those of the Greeks shall be drawn until a total of 25 is obtained in each group. Of these, the prosecutor may, if he wishes, dismiss one from each group, and the accused three out of the total, provided he does not dismiss either all Romans or all Greeks." (2 Roman Civilizations 37, New York: Harper & Row, 1966).

It's interesting to note that Augustus interjected the practice of peremptory challenges and random selection of jurors from urns.

However, before a person can participate in the jury impaneling process, he or she goes through another selection process--that of becoming

part of the jury list. Most jurisdictions have elaborate procedures for selecting a list of potential jurors that accurately represents the community. In North Carolina individuals are selected from voter registration lists and lists of licensed drivers. However, certain persons are not eligible even if they are on those lists. Aliens, the aged, those who are underage, or can't read and write the English language cannot serve.

North Carolina law states the following qualifications for jury service: A person must be a citizen of North Carolina and the United States; a resident of the county in which he or she is being called to serve; at least 18 years of age; physically and mentally competent to serve; hear and understand the English language; not have served during the preceding two years, and not convicted or have pleaded guilty to a felony unless citizenship has been restored.

No excuse from serving on a jury is automatic. The judge decides each individual request. According to North Carolina statutes, "Jury service is a solemn obligation of all qualified citizens and that excuses from the discharge of this responsibility should be granted only for reasons of compelling hardship or because requiring service would be contrary to the public welfare, health, or safety."

Countries other than the United States that use jurors have various methods of selecting citizens for the jury pool. In England jurors are selected from the electoral rolls and contacted by mail. It is easy to be excused so the actual jury is often quite different from the original mailing. In France selection is from a list of male citizens 30 years of age or over who possess all civil and political rights. In Switzerland juries sitting in certain federal criminal cases are elected by the people for six-year terms on the basis of one juror for each 3,000 inhabitants. Jurors are taken from local lists of "outstanding" citizens and impaneled for a term of one year in West Germany. The judge and jury sit on the bench together and participate jointly and equally in deliberations on a case. There are usually two jurors sitting on each case. A similar type of jury participation and deliberation process is present in China and Russia today. Though referred to as jurors, or assessors, their role and responsibilities have little resemblance to the jury system in the United States.

Once a citizen has passed the peremptory challenges and challenges for cause and a full jury has been agreed upon by both sides, the trial is ready to begin. The work of the jury begins at this point. Each side in the trial will make an opening statement explaining what he or she intends to prove "beyond a reasonable doubt" in a criminal trial or by the "greater weight of the evidence" in a civil case (see vocabulary list). These statements are not to be regarded as evidence by the jury. Next, the prosecutor or plaintiff's attorney will present witnesses and other evidence to support the opening statement. This is called direct examination of the evidence. The defendant's attorney will ask questions of these witnesses. This process is called cross examination. Then, the defendant's attorney will present direct testimony and evidence to support his or her opening statement with the other side conducting a cross examination of the defendant's evidence. After all the evidence has been presented, the attorneys will summarize their cases in their closing statements. Then, the judge will instruct the jury regarding the law that applies to the case. At this point, the jury will leave the courtroom and begin the deliberation process.

The above is a very simplistic explanation of what happens in the courtroom during a trial, but the focus of this lesson is on the role of the jury in the selection and participation process. Therefore, emphasis should be placed on the juror's interaction with the court process.

A recent study by the United States Department of Justice found that the average juror may understand no more than half of a judge's instructions on how to apply the law to the facts. Among the recommendations growing out of the study were that common language be used in legal instructions and that jurors be allowed to take written instructions with them when deliberations begin.

The judge's instructions tell the jury what must be proven in order to find a defendant guilty, or in a civil suit to find in favor of the plaintiff. Traditionally, jury instructions consist of lengthy statements of abstract legal propositions accompanied by definitions of the legal terms used. There is a reason for all these legalisms. Improper instructions constitute grounds for an appellate court to reverse the trial court decision. Therefore, the judge's instructions are often read from a lengthy text which is then available for possible appellate review. Instructions in criminal cases include a description of the elements which must be proven, and in civil cases the instructions include a description of the legal issues involved in the dispute.

Jurors are under oath to decide the case only on the evidence presented in open court. They are not supposed to research the case themselves, going beyond the evidence presented. They are not supposed to read law books or visit the scene of the crime on their own. In most jurisdictions, jurors are not supposed to take notes; but in North Carolina jurors may take notes. However, upon objection of any party involved in the case, the judge must instruct the jurors not to take notes. This statute does not limit the authority of the trial judge to control the taking of notes by the jury in the absence of objection by counsel. State v. McCaskill, 47 N.C. App. 289, 267 S.E.2nd 331 (1980). Two arguments against taking notes are that jurors who are taking notes aren't seeing but only hearing the witness and miss the demeanor of the witness, and that the juror places too much weight on the notes and not enough on memory. However, those in favor of the process point out that everyone takes notes in society so why prohibit jurors from doing so.

Communications' studies have shown that the first information obtained by a juror about a case is probably the information around which he or she will form a preliminary hypothesis (Judicature, Vol. 65, Nos. 8-9, March-April 1982, page 446). Sometimes this information has come through the news media prior to the trial. In addition to pretrial publicity, the conditions of the trial itself and the defendant's characteristics, can effect the juror's judgment. It is also hard to measure the impact of evidence which the jurors heard in open court but which the judge told them to disregard because it was ruled inadmissible for some reason. Jurors often consider more than the issues of fact and often recognize values outside the official rules.

In North Carolina, trial judges not only instruct jurors on the law that applies to the case, but may also provide procedural instructions to the jury. These instructions are provided here to assist students in the

development of concensus decision making and deliberation skills which can be applied to recommended student activities. All 12 jurors must agree to a verdict in North Carolina. Judges may instruct jurors that:

1. They have a duty to consult with one another and to deliberate with a view of reaching an agreement if it can be done without violence to individual judgment.

2. Each juror must decide the case for himself, but only after an impartial consideration of the evidence with his fellow jurors.

3. In the course of deliberation, a juror should not hesitate to re-examine his own views and change his opinion if convinced it is erroneous; and

4. No juror should surrender his honest conviction as to the weight or effect of the evidence solely because of the opinion of his fellow jurors or for the mere purpose of returning a verdict.

If it appears that there is no reasonable possibility of agreement, the judge may declare a mistrial and discharge the jury. In this case, a defendant can still be brought to trial again with a new jury being impaneled. The famous English legal scholar, Sir William Blackstone, said over 200 years ago that, "It is better that the guilty go free than one innocent (person) suffer." He had a very strong commitment to the worth of the jury system, feeling that "trial by jury is that trial by the peers of every Englishman which is the grand bulwark of our liberties...the most transcendent privilege which any subject can enjoy and wish for."

Those values and sentiments expressed by Blackstone can be found today among twentieth century jurors. As one former juror remarked in a recent Reader's Digest article (February 1981), "It's been a long time since I have felt so much pride in simply being a citizen, in serving my neighbors, in learning that my constitutional heritage is more than theory."

There are only three avenues in which the average citizen can participate in our democratic, constitutional form of government: voting, military service, and jury service. North Carolina students can take pride in preparing themselves to serve as impartial factfinders if called to serve on a jury with one's peers.

Purpose:

The purpose of Lesson Two is to understand the jury selection and participation process as it relates to the trial court including how jurors are chosen, impaneled, and deliberate.

Objectives:

To evaluate the selection and participation process in North Carolina and to compare it with practices in other countries.

To define and interpret the meanings of "impartial" and "peers" as they apply to the jury selection process.

Objectives (continued)

To differentiate between challenges for cause and peremptory challenges and analyze their effect on securing an impartial jury of one's peers.

To reinforce listening and observation skills through participation as mock jurors.

To develop factfinding skills and group participating skills through the deliberation process.

To analyze evidence and determine what has been proven and what has not based on the different burdens of proof in civil and criminal cases.

Vocabulary Words:

Peers:	One's equals or matches, having similar qualities, and residing in the same community (the latter applied to juries of one's peers).
Impartial:	Not favoring one more than the other, unbiased, equal, just.
Bias:	Prejudice, favoring one side more than the other.
Voir dire:	"To tell the truth," questioning process for selecting impartial jurors of one's peers.
Peremptory Challenge:	Process by which a prospective juror is removed from service without a stated reason.
Challenge for Cause:	Process by which a prospective juror is removed for a stated reason with which the judge agrees; example, demonstrated prejudice, bias, or unfairness.
Impanel:	Process in which prospective jurors are selected to hear a case in court.
Credibility:	Refers to one's trustworthiness and believability, such as credibility of a witness.

Vocabulary Words (continued)

Opening Statement:	Remarks made by the attorneys in a trial representing both sides in the case. The attorneys state what they intend to prove during the trial. These remarks are directed to the jury but are not to be considered as evidence.
Direct Examination:	Questioning of a witness by the attorney who called the witness to testify.
Cross Examination:	Questioning of a witness by the attorney who did not call the witness to testify.
Testimony:	Statements made under oath by a witness during a trial.
Closing Statement:	Summary remarks at the end of the trial after all witnesses have been called. Attorneys for both sides make closing remarks. These are not to be considered as evidence by the jury.
Evidence:	Anything submitted in open court which aids in determining the truth in the case, such as testimony of witnesses, documents, or objects.
Jury Charge:	Instructions given by the judge to the jury at the end of the trial with regard to the laws that apply to the case.
Deliberation:	The process by which members of the jury determine the guilt or innocence of a defendant in a criminal case or the responsibility or lack of responsibility of a defendant in a civil action.
Beyond a Reasonable Doubt:	The burden of proof in a criminal case where there is no reasonable doubt in the minds of the jurors that the defendant committed the crime(s) with which he or she was charged. This is a more difficult burden of proof than in civil cases.
Greater Weight of the Evidence:	The burden of proof in a civil case where more than 50 per cent of the evidence points to one side's version of what happened. In some states the civil burden of proof is also referred to as by the "preponderance of evidence."

Vocabulary Words (continued)

Sequestration: Procedure whereby the jury is isolated from the public during the course of a sensational trial.

Hung Jury: A jury which was unable to reach a verdict.

Jury Polling: Process whereby each juror is asked individually in open court to stand and state how he or she voted after the verdict has been announced.

STUDENT ACTIVITIES

Comments:

The student handouts which follow should be incorporated into the student activities along with the computer software activities. These student activities are designed to reinforce learning and development skills through participation and interaction with the jury process and those professionals involved with it.

1. Invite the person in your court who conducts the jury orientation (this may be a judge) to your classroom to discuss the jury selection and impaneling process.

2. Review the jury qualifications for North Carolina and decide if you would add, delete, or otherwise change them. Discuss your findings with your local legislative representatives.

3. Using the student handout materials, mock your own selection process for a hypothetical case in class and evaluate that process in terms of securing an impartial jury of one's peers.

4. Ask a defense attorney and a prosecutor to visit your class and discuss the type of juror each would like and why in a given hypothetical case. Students can develop their own fact situations for a criminal case.

5. Observe the impaneling of a jury at your local superior court, recording the jurors who were excused, and determine if they were excused for cause or on peremptory challenges and what social and psychological factors were present.

6. Discuss the student handout charts as they relate to selecting an impartial jury which represents

Student Activities (continued)

the community. Compare an actual jury in your community with your local demographic statistics regarding age, sex, race, and economic status for your community. Ask a town government official to locate these census figures for you and your clerk of court for your jury information.

7. Sit in superior court as a mock jury, deliberate on your case, following the guidelines listed in the background information and student handouts section. Discuss your experience with a judge, an attorney, or a former juror in class.

8. Interview actual jurors to learn what it felt like to be a juror. Invite a former juror to your class to discuss his or her experience. Review the student handouts on actual first-hand jury experiences.

9. Read and rewrite the sample jury charge in the student handout section with the objective of making it more understandable. Review your changes with a judge. Students should try to follow the guidelines below in doing this activity:

   A. Omit unnecessary words.

   B. Use simple, concrete words.

   C. Use short sentences.

   D. Avoid negative words.

   E. Present the subject matter in an orderly, logical sequence.

10. Ask law students or members of your local bar association to present a mock trial in class with students divided into several juries that will deliberate the case. Review your experience and your verdict with those persons who presented the trial. Discuss the burden of proof that applied in your case.

THE

English-mans

RIGHT.

A

DIALOGUE

BETWEEN

A *BARRISTER* at *LAW*,

AND A

JURY-MAN:

Plainly setting forth,

I. The Antiquity
II. The excellent designed use } of JURIES,
III. The Office and just Priviledges

By the Law of England

LONDON: Printed for *Richard Janeway*, in *Queens-head Alley* in *Paternoster-Row*. 1680.

JURY SELECTION ACTIVITIES

Background Information:

The defendant is charged with unintentionally causing the death of another person while engaged in the violation of a state law applying to the operation of a vehicle. See Student Handouts on Death by Vehicle which includes the statute, elements, punishment and jury charge.

The defendant failed to stop for a school bus which was unloading two ninth grade students on Parker Road, resulting in the death of one student. The defendant is white, male, factory worker, age 52, married, three grown children. The victim was black, female, student, age 14, lived with her parents and two younger brothers.

If you decide to develop a mock trial with this activity, refer to handouts in Lesson One for additional roles. You can ask an attorney to serve as judge.

Directions:

The prosecutor and defense attorney can each have eight peremptory challenges and unlimited challenge for cause. You may impanel a jury of 6 or 12, depending on the number of students involved. Give students a number and a character role to play. Call the first 6 or 12 names and have the students sit in a mock jury box area. Follow challenge directions found in the Background Information section. Use sample questions found in Student Handout section and develop other questions that seem appropriate to the case.

After a jury has been impaneled, ask students to analyze the process based on the objective of securing an impartial jury of one's peers. Ask students if they feel that such factors as career, sex, political beliefs, socio-economic status, nationality, and race influenced who was selected for the case.

Juror Numbers and Characteristics:

1. Black female, 40, married with family, computer programmer
2. White male, 26, single, teacher
3. Hispanic male, 59, married with family, retired
4. Black female, 38, married with family, nursery school teacher
5. White male, 38, divorced, works for defendant's sister
6. White female, 37, single, unemployed
7. White female, 30, married with family, homemaker
8. Hispanic female, 26, married with family, secretary
9. Black male, 26, married with no children, factory worker
10. White male, 43, married with family, construction worker who knows the defendant
11. White female, 32, married with children, school cafeteria worker
12. Black female, 29, single, doctor
13. Black male, 45, married with family, journalist
14. White male, 34, divorced, race car driver
15. White male, 56, married with family, farmer
16. Black female, 41, married with family, artist
17. Hispanic male, 26, single, auto mechanic
18. White female, 28, divorced, college professor
19. Black male, 46, widowed with family, bank teller
20. White female, 18, single, student
21. Black male, 19, single, student
22. White male, 52, married with family, factory foreman

Sample Jury Impaneling Questions: *

A thorough examination of the potential jurors must include relevant topics of inquiry in order to gain the necessary knowledge to make an intelligent choice.

1. Family status

   a. Number of children, ages and sex?
   b. Spouse employment, if any?
   c. Reside with parents?

2. Residence

   a. Do you own your home, or rent?
   b. How long have you lived at your present address?
   c. How many places have you lived in the past ten years?
   d. Do you own other real estate?

3. Occupation

   a. What kind of work do you do?
   b. If you have a job title, what is it?
   c. In your job, do you have the authority to: promote people; hire people; fire people?
   d. How many people do you supervise, or how many people report directly to you in your job?
   e. How many different employers have you worked for in the past ten years; name them?
   f. If your spouse works outside the home, what does she or he do?

4. Education

   a. How far did you go in school?
   b. Have you done postgraduate work?
   c. If so, at what school and what degree did you receive?
   d. What subjects did you major in while in college?
   e. Did you participate in athletics or extracurricular activities?

5. Prior jury service

   a. Civil?
   b. Criminal?
   c. Were you juror foreman?
   d. If a verdict was reached, what was it?
   e. Grand jury service?
   f. Membership in Grand Jury Association?

6. Relationship with law enforcement agencies

   a. City, state, federal police?
   b Prosecutors?

c. Internal Revenue Service, Immigration, and other quasi-law enforcement agencies?
d. Military police?
e. Know any lawyers?

7. Victim of Crime

a. Appearance before grand jury?
b. Meetings with District Attorney?
c. Testified at trial?

8. Experience with justice system

a. Ever been a witness?
b. Ever been an investigator?
c. Ever a party to litigation?

9. Publicity

a. What newspapers or magazines do you subscribe to?
b. Have you read anything about this case?
c. Do you know anything about this case?
d. Do you know anyone connected with this case?

10. Military Service

a. What branch?
b. What rank?
c. Were you ever in combat?
d. Military police?

11. Organizations

a. Civic?
b. Religious?
c. Political?
d. Social?
e. Union?
f. Scouting, PTA, CYO, YMCA, YWCA, etc.?
g. Ever held office in organizations?

12. Leisure Time

a. Hobbies?
b. Favorite television show?
c. Drink alcoholic beverages, or visit night clubs?
d. What is the last book you read?

*adapted from "The American Jury," Marjorie Schultz, Associate Editor. Law and Contemporary Problems, Vol. 43, #4, Autumn, 1980, Duke University School of Law, Durham, N.C.

GUIDELINES FOR JURY DELIBERATION ACTIVITIES

Comments: The jury foreperson in Angela Davis's trial in 1972 used the following rules in leading the jury deliberation. These points can be used to guide students during their mock jury deliberation activities.

Get Organized:

1. Elect a foreperson
2. Elect a secretary
3. Elect a tally counter

Prepare Topics for Discussion:

1. Each juror should suggest topics
2. The foreperson and secretary should arrange them in logical order.

Discuss Topics:

1. Discuss one subject at a time
2. Vote separately on the importance of each factor

Debate on the Verdict:

1. Each juror should be allowed to express his/her views

Vote on the Verdict:

1. Each count of the verdict must be voted on separately by a secret ballot

In addition to the above Guidelines, students may want to refer to four points regarding the judge's guidelines which appear in the Background Information section and "The Citizen as a Juror" which appears in the Student Handout section.

DIRECTIONS: The following information may be used with the jury selection activity and/or mock deliberation activities.

DEATH BY VEHICLE

North Carolina General Statute

20-141.4 Death by vehicle.- (a) Whoever shall unintentionally cause the death of another person while engaged in the violation of any State law or local ordinance applying to the operation or use of a vehicle or to the regulation of traffic shall be guilty of death by vehicle when such violation is the proximate cause of said death.
(b) A violation of this section shall constitute a misdemeanor, punishable by a fine of not more than five hundred dollars ($500.00) or imprisonment for not more than two years, or both, in the discretion of the court.
(c) No person who has been placed in jeopardy upon a charge of death by vehicle shall subsequently be prosecuted for the offense of manslaughter arising out of the same death; and no person who has been placed in jeopardy upon a charge of manslaughter shall subsequently be prosecuted for death by vehicle arising out of the same death.

Elements

A person is guilty of this offense if:

(1) he unintentionally
(2) kills
(3) another person
(4) while violating any state law or local ordinance concerning the operation of a vehicle or regulating traffic.

Punishment

Misdemeanor punishable by imprisonment for not more than two years and/or a fine of not more than $500.

Judge's Instructions to the Jury

The defendant has been accused of death by vehicle, which is the unintentional killing of a human being by a person engaged in the violation of a law or ordinance governing the operation of motor vehicles.

(Briefly summarize the evidence.)

Now I charge that for you to find the defendant guilty of death by vehicle, the State must prove two things beyond a reasonable doubt:

Judge's Instructions to the Jury (continued)

First, that the defendant violated any one of the following laws of this State governing the operation of motor vehicles. The laws of this State include (define the pertinent traffic law(s) and enumerate its or their elements).[1]

And second, that the defendant's violation of (describe law or ordinance violated) proximately caused (name victim)'s death. A proximate cause is a real cause, a cause without which (name victim)'s death would not have occurred. (The defendant's violation need not have been the only cause or the last or nearest cause. It is sufficient if it is concurred with some other cause acting at the same time, which, in combination with it, proximately caused the death of (name victim).)[2]

So I charge that if you find from the evidence beyond a reasonable doubt that on or about (name date), (name defendant) (describe conduct) and that in so doing (name defendant) (describe violation or violations), and that (name defendant)'s violation proximately caused the death of (name victim), it would be your duty to return a verdict of guilty of death by vehicle. However, if you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.[3]

---

[1] Elements of the violation must be defined here and in the mandate.

[2] If there is no real issue as to proximate cause, omit the two sentences within the parentheses.

[3] When a case will be submitted to a jury on a charge for which the penalty involves the possibility of the loss of a motor vehicle driver's license, either party may indicate the consequences of a verdict of guilty of that charge. G.S. 15-176.9.

THE REASON FOR CHALLENGE

	by Prosecution	by Defense
Relatives or friends in law enforcement	1.5	18.0
Prior jury service that		
ended in conviction		0
ended in acquittal	10.3	
other	8.8	13.0
Race		
black	10.9	
white		2.2
Age		
young	5.3	.6
old	1.5	8.7
Sex (female)	7.9	1.3
Residence		
suburb or white city neighborhood		8.7
"liberal" part of city	2.1	
Occupation		
case-related	5.2	5.6
generally suspected of bias	6.9	10.2
Strength of personality, high intelligence	2.9	4.6
Low intelligence, weak	2.9	___
Language difficulty	3.8	2.4
Lack of job stability	6.5	___
Experiences related to case	17.6	.6
Demeanor, intuition	10.9	24.1
	100.0	100.0

The American Jury System: Final Report, The Roscoe Pound-American Trial Lawyers Foundation, Cambridge, MA, 1977, pg. 91

CENSUS-BASED MODEL*
ACTIVITY

Directions: Ask students to review the following categories for potentially unqualified, exempt and excused community residents. Ask your County Jury Commissioner to review these statistics with you to compare them with actual percentages in your community. Are there categories in your community which do not apply to this national model? Students can develop their own census-based model with the help of government officials and write an article for your local newspaper reporting the results of your findings.

Total Sample			31,297	
Potentially Disqualified:				
Not a citizen	1,032	(3.3%)		
Disabled	1,534	(4.9%)		
In jail	35	(0.1%)		
Total			2,601	(8.3%)
Potentially Exempt:				
In Armed Forces	398	(1.3%)		
Fireman or Police Officer	244	(0.8%)		
Judge or Public Officer	60	(0.2%)		
Total			702	(2.3%)
Potentially Excused:				
Over 70 years	3,090	(9.9%)		
Clergy	37	(0.1%)		
Care of child	5,567	(17.8%)		
Doctor or Nurse	556	(1.8%)		
Teacher	1,093	(3.5%)		
Attorney	42	(0.1%)		
Sole Proprietor	1.676	(5.4%)		
Total			12,064	(38.6%)
Total Potentially Unqualified, Exempt, Excused			15,367	(49.1%)
Total Qualified			15,930	(50.9%)

*Jury Selection Procedures, John M. Van Dyke, Ballinger Publishing Company, Cambridge, MA, 1977, pg. 384

THE CITIZEN AS A JUROR *

John A. Flanigan

I am a Juror.

I am a seeker after truth.

I must listen carefully and with concentration to all the evidence.

I must heed and follow the instructions of the Court.

I must respectfully and attentively follow the arguments of the lawyers, passionately seeking to find and follow the silver thread of truth through their conflicting assertions.

I must lay aside all bias and prejudice.

I must be led by my intelligence and not by my emotions.

I must respect the opinions of my fellow jurors, as they must respect mine, and in a spirit of tolerance and understanding must endeavor to bring the deliberations of the whole jury to agreement upon a verdict; - but

I must never assent to a verdict which violates the instructions of the Court or which finds as a fact that which, under the evidence and in my conscience, I believe to be untrue.

In fine, I must apply the Golden Rule by putting myself impartially in the place of the plaintiff and of the defendant, remembering that although I am a juror today passing upon the rights of others, tomorrow I may be a litigant whose rights other jurors shall pass upon.

My verdict must do justice, for what is just is "true and righteous altogether"; and when my term of jury service is ended, I must leave it with my citizenship unsullied and my conscience clear.

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* Prize-winning essay in the 1944-45 contest of the Committee on American Citizenship of the American Bar Association.

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True Confessions of an Innocent Juror

by Norman Abramowitz

As a social studies professional, I was doubly intrigued to receive my first notice six years ago to serve as a juror in Albany County Criminal Court. Such service would boost my feelings of good citizenship and would help me know more about our judicial system. Since that time, I have served on three criminal court juries, the most recent several weeks ago, as an alternate juror.

In the courtroom, at first things seemed to go along as I had expected them, the strategems and posturing of the attorneys, the arcane reasons for excusing jurors on peremptory challenges, the unaccountable delays, the boredom of the attendants and the lack of enthusiasm to serve on the part of many prospective jurors.

I was less prepared for the awesome powers of the judge, the gravity of the charges, the human tragedies that unfolded from the witness box, and, at verdict time, the utter desolation of a "guilty" verdict and the elation of a judgment of "not guilty."

I was least prepared for the actions of my fellow jurors.

I did not foresee and had never taught in school the role of prejudice, ignorance, illogic, and emotion. Nor did I foresee the tyranny of the clock or the pressures of conformity.

The judge and the judicial system take cognizance of these matters. Much of the judge's charge to the jury dwelt on the importance of a collective decision individually concluded and one that eschewed the above negative factors.

Nevertheless, the depressing side of human nature was soon to unfold as testimony ended.

I did not expect that, in each jury case, two to four jurors would take no part whatsoever in deliberations, except to say good morning or goodbye; that the same number would switch sides at the first indication that the majority of jurors held opposite views. I did not expect a juror to vote with the majority because she had to go home to feed her dog. I was not intellectually prepared for the irony of seeing a juror discount a policeman's testimony that he saw the black defendant make a drug sale because the juror felt that all blacks (he used a pejorative term instead) look alike.

I did not anticipate the shouting and the intimidation techniques of a state worker with a professional job who found himself outvoted and outargued, and who unexpectedly gave up the fight when the clock struck five.

On the positive side, when my jury duty ended, I felt exhausted but gratified by the fairness of the final verdicts. Put more accurately, I was happy that the other jurors agreed with my views after all. Looking back, I remain enlightened by the judge's charge to the jury and appreciative that the highest priced attorneys did not necessarily score the most points with the jurors.

My initial prospect that these experiences would suggest ways of helping students understand the criminal justice system in New York State and the American legal system was only partially fulfilled.

My experience as a juror confirmed the folk knowledge that the defendant has the worst seat in the house and the judge the best one. It raised in my mind the possibility that the prosecutor may have a psychological edge over the defense attorney, despite having the chore of proving his case beyond a reasonable doubt.

The experience demonstrated the fragility and vulnerability of judgment based on human recollection and collective wisdom.

The experience sharpened my thinking for awhile on such questions of logic as the nature and characteristics of possibility and probability, inference and conjecture, deduction and confutation.

I learned that the jury system is based on trust — trust that the judges and lawyers will play the rules fairly and not artfully and, most importantly, trust that 12 persons of differing intellects and varied interests will have enough of a common value system and enough distance from other emotions to arrive at a fair verdict.

How can we as teachers increase the odds that our students will be fair and impartial jurors?

For one thing, we can support the legal values that underpin our society by practicing in the classroom the pieties that students learn from textbooks: justice, honesty, respect for the opinions of others and an appetite for learning and discovery.

For another, we can make learning about the workings of the justice system authentic by introducing real cases and hard issues.

We can bring judges and attorneys into the classroom, not to preach law and order, but to argue for and explain those personal characteristics and societal actions that must precede the achievement of these goals.

We can formulate lessons that challenge students to define and refine their own value systems. We can encourage knowledge of justice in other nations and cultures and of how other people resolve their conflicts and build their own societies.

As products of the age of enlightenment, we must acknowledge that the common goal of humankind is the achievements of justice — justice in the courtrooms and social justice in government — and that law without such justice is tyranny.

Norman Abramowitz is an Associate in the Bureau of Social Studies of the New York State Education Department.

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DOES THE JURY REFLECT THE COMMUNITY?

Comments: The following statistical data on the federal courts in North Carolina is provided to further student research activities regarding issues surrounding the right to an impartial jury of one's peers. Students may use this information gathered from the census and court statistics to compare state and federal jury service percentages in their own community with other communities in North Carolina.

Code: A.P.C. = Actual Population in the Community

A.J.S. = Actual Jury Service

	Nonwhites		Women		Blue-Collar Workers	
	A.P.C.	A.J.S	A.P.C.	A.J.S.	A.P.C.	A.J.S.
Elizabeth City	36.1%	18.7%	53.0%	45.6%	64.6%	37.5%
Fayetteville	31.8%	18.9%	48.2%	46.3%	64.4$	50.5%
New Bern	21.4%	14.0%	48.4%	43.2%	61.7%	41.9%
Raleigh	24.3%	12.9%	52.4%	48.1%	50.9%	34.8%
Washington	33.6%	45.6%	53.6%	41.7%	not available	
Wilmington	26.5%	17.9%	53.3%	44.6%	64.2%	53.9%
Wilson	34.9%	18.0%	53.5%	42.2%	64.2%	49.6%
Asheville	5.5%	5.0%	53.2%	41.6%	not available	
Bryson City	5.3%	4.5%	51.7%	46.4%	not available	
Charlotte	19.3%	16.5%	53.7%	47.6%	not available	
Shelby	10.5%	8.9%	53.0%	38.0%	not available	
Statesville	9.3%	5.4%	52.7%	33.9%	not available	

JURY EDUCATION PROGRAM SCRIPT

In America, almost three million citizens are called to jury duty each year. Our judicial system accounts for nearly ninety percent (90%) of all the jury trials in the world. Jury service is a privilege not shared by citizens in many countries. Service on a jury affords you an opportunity to be a part of the judicial process. You are being asked to perform one of the highest duties of citizenship; to help determine how the legal affairs and liberties of your fellow citizens will be protected under our form of government. The right to be judged by a jury of ones peers is the foundation of our American system of justice.

While serving as a juror, it is important that you understand how your court system is organized and what to expect as a juror.

North Carolina has a unified statewide and state-operated General Court of Justice consisting of three divisions: The Appellate Division, the Superior Court Division and the District Court Division. The Supreme Court and the Court of Appeals make up the Appellate Division and both are located in Raleigh. The Appellate Courts decide cases that are appealed from the trial court.

The Superior Court is the Court with general trial jurisdiction. Civil cases, felony trials and misdemeanors appealed from the District Court are heard in Superior Court. This court sits at least twice a year in every county of the state. In the larger communities this court sits every day.

The District Court generally sits in the county courthouse. The District Court hears civil cases, misdemeanor criminal cases, juvenile cases and domestic cases. Juvenile cases are those involving youth under the age of sixteen. They are not heard before a jury, rather they are heard by a district court judge who makes the decision.

The North Carolina court system is administered by the Administrative Office of the Courts, a non-judicial administrative organization.

The Chief Justice of the North Carolina Supreme Court appoints the Director of the Administrative Office of the Courts, and the Chief Justice is the head of our court system. The cost of your judicial system represents less than three percent (3%) of the state budget each year. Over seventy-five percent (75%) of this cost is recovered through fees, fines, and forfeitures collected by the courts.

You have been called for service in a Superior and District Court. You may be asked to serve for one trial or one day, or for one week. In each county in North Carolina a list of citizens eligible to serve on the jury is compiled every two years. The voter registration records and the list of licensed drivers provide the sources of names for the jury list. Your name was selected at <u>random</u> from this list to be summoned for jury duty.

It is part of the public policy of North Carolina that qualified citizens should serve as jurors. Qualifications for jury duty established by law are that you:

1. Be a resident of the county in which you are called to serve,
2. Be at least 18 years of age and physically and mentally competent,
3. Not have been convicted of a felony (unless your citizenship has been restored),
4. Not have pleaded nolo contendere or no contest or guilty of a felony (unless your citizenship has been restored),
5. You may not serve on jury duty more than once every two years.

The Court recognizes that you may be inconvenienced by serving on the jury. Every effort will be made to see that your time is not wasted. It

may be that you will not be seated on a jury or that you will have to wait until the parties are ready to begin the trial. A jury trial is a complex event and many preparations must be completed by the Judge and the attorneys before a trial can begin.

If this is the first time you have ever been called for jury duty, you may not be familiar with the jobs of the people who work in a courtroom. The JUDGE presides over the trial from the bench and is responsible for the ruling on all questions of law. Perhaps the most important duty of the judge is to instruct the jury on the law as it applies to each case.

The DEPUTY or ASSISTANT CLERK OF SUPERIOR COURT is responsible for administering oaths to witnesses and keeping the Court's records.

The COURT REPORTER takes down and transcribes everything that is said in the courtroom during the trial and upon hearing of the various motions.

The BAILIFF enforces the Court's orders. If an emergency or any personal need arises during the trial, you should inform the bailiff.

Seated in front of the Judge's bench are the attorneys. In a civil trial the plaintiff- the party who has filed the lawsuit- and his attorney are seated at one table. The defendant and his attorney are seated at the other table.

In a criminal case the DISTRICT ATTORNEY who represents the State, is seated at one table. It is his duty to prosecute the matter on behalf of the State. Opposite the District Attorney is the DEFENSE ATTORNEY who represents the person who has been charged with the crime.

WITNESSES are persons who may be called by either side to testify under oath to prove or disprove some issue in dispute.

And, finally, there is you, the JUROR. It is your duty to decide from the evidence presented during the trial what the facts are. You are the sole judge of the credibility of each witness. You must decide for

yourself whether to believe the testimony of any witness. You may believe all, or any part, or none of what a witness has said on the stand. In determining whether to believe any witness, you should apply the same tests of truthfulness which you apply in your everyday affairs.

You may be asked to hear one of several types of cases. In a criminal case a person is charged by the State with a violation of the criminal laws. There are two types of criminal cases. Felonies are serious criminal charges. Misdemeanors are less serious offenses. All other cases are civil cases which include disputes between two or more parties. In the District Court you will hear civil cases or possibly domestic cases. In the Superior Court you may hear criminal cases or civil cases.

A jury trial begins with the selection of the jury. The Judge and the attorneys will question you about your knowledge of the case being presented, your background and attitudes. They will try to determine if you have had any experience which might prevent you from being completely fair in deciding the facts of the case. These questions may seem personal, but they are not intended to pry into your affairs.

In the selection process each attorney is given a limited number of opportunities to excuse jurors from the panel without giving a specific reason. These opportunities are called peremptory challenges. A juror may also be challenged for cause. A challenge for cause might be exercised where a juror is a social friend of one of the parties. When it becomes obvious from the questioning that such a situation exists, the attorney will ask the Judge to excuse the juror for cause. There are many reasons why jurors are excused from serving on a case. Do not feel offended if you are excused. Once the selection process is complete, the jury is sworn to fairly try the issues and the trial is ready to begin.

The attorneys in the case may make an opening statement. It is important to remember that opening statements are not evidence.

After the opening statements, the evidence will be presented. Pay close attention to each witness as he or she testifies, not only to hear what is said, but also to watch his or her mannerisms and expressions. You are the sole judge of the credibility or believability of the witnesses and your verdict may depend upon whom you do or do not believe.

During the course of the trial, motions and objections may be made by either side relating to evidence, points of law, or procedure. Sometimes it will be necessary for the lawyers to step up to the Judge's bench to discuss questions concerning technical points of law or courtroom procedure which the Judge alone must decide. Therefore, such conversations are not for the jury to hear. The Judge may excuse the jury or recess the court to rule on objections or motions out of the presence of the jury. Such procedures are followed to insure a fair trial for all parties.

If one of the attorneys makes a motion to strike a particular question or answer, the Judge may instruct you to disregard what was said. Although this may be difficult, you must consider what is ordered stricken from the record.

During the course of your term of service, it is your duty not to talk among yourselves about the proceedings in this Court or about the cases here for trial. You must not talk to parties, witnesses or counsel about anything. If someone tries to talk to you about the case, it is your duty to immediately tell the Judge. Further, it is your duty to avoid reading newspapers, watching television or listening on the radio to any accounts of the proceedings in this Court, or about any case pending before the Court.

Occasionally jurors believe they can better reach a verdict by visiting the scene of the event or incident being considered in the case. This

is strictly prohibited unless ordered by the court and under court supervision. You must not conduct your own investigation of the case, because you would be evaluating the scene under circumstances and conditions which did not exist at the time of the event or incident. This would not be fair to the parties involved.

After all of the evidence has been introduced, the lawyers will summarize their cases to you. It is your duty not only to consider all of the evidence, but also to consider arguments, contentions and positions of the parties. You must weigh them in light of your common sense and to determine the truth of this matter.

At the conclusion of the final argument the Judge will instruct you on the law that applies to the case. Pay close attention to the Judge's instructions. You must apply the law which the Judge gives you to the facts which you decide. It is absolutely necessary that you understand and apply the law as the Judge gives it to you, and not as you think it is, or as you might like it to be.

There are different degrees of proof required in civil and criminal cases. In a civil case the burden of proof is by the "greater weight of evidence." In a criminal case the defendant is presumed innocent until proven guilty. In order to convict a defendant in a criminal case, the State must satisfy you of guilt "beyond a reasonable doubt." The Judge will explain to you in detail what the burden of proof is in the case that you are hearing. You must pay very close attention to the Judge's instructions.

After the Judge reads his instructions, you will retire into the deliberation room. Your first job will be to choose someone to preside over your deliberations. It is that person's duty to see that the discussion is carried on in a free but orderly manner that allows every juror an opportunity to be heard. In your deliberations there may be differences of

opinions and arguments. Listen to the opinions of others. In North Carolina a verdict requires a unanimous vote.

When a verdict has been reached, your spokesperson will instruct the bailiff that the jury has arrived at a decision. Do not tell the bailiff or anyone else what the verdict is until the Judge requests it in open court.

After the verdict is rendered, one of the parties may request that the jury be "polled." This means that each juror will be asked if the verdict announced was your verdict, and if it is still your verdict.

America is only one of a handful of countries in the world that respects its citizens so highly that it calls upon them to sit in judgment of other citizens. Jury service provides you with an opportunity to participate directly in the administration of justice, and to play an active role in our democratic form of government.

If you should feel for a moment that jury duty is inconvenient, stop to picture yourself as a defendant or litigant in a trial and be secure in the knowledge that in America your case may be heard, not by a soldier or policeman in a barracks or stationhouse, but in open court on the record by someone just like you - a citizen - an honorable man or woman - a juror.

ADDITIONAL RESOURCES ON THE JURY SYSTEM

Books

You and the Courts, Learning Activity Package, by Arlene F. Gallagher. Unigraph, Seattle, WA.

Courts and the Classroom, Guide to Law-Related Education Programs Through the Court System, 2nd Ed., by Julie F. Van Camp. Massachusetts District Court Administrative Office, Salem, MA.

Courts and Trials, Law in Action Series, 2nd Ed., by Linda Riekes and Sally Ackerly. West Publishing Co., St. Paul, MN.

Street Law, A Course in Practical Law, 2nd Ed., by Lee Arbetman, Edward McMahon, and Edward O'Brien. West Publishing Co., St. Paul, MN.

Civil Justice, by Susan McKay, and Criminal Justice, by Carl Martz and Rebecca Novelli. Scholastic Book Services, Inc., New York, NY.

Law and the Classroom: Activities and Resources, by Mary Jane Turner, Social Science Education Consortium, Boulder, CO.

A Resource Guide to Assist Lawyers and Law Students for Participation in Kindergarten through Eighth Grade Law-Related Education Classrooms. Phi Alpha Delta Law Fraternity International, Washington, D.C.

A Resource Guide on Contemporary Legal Issues for Use in Secondary Education. Phi Alpha Delta Law Fraternity International, Washington, D.C.

The Idea of Liberty, and Justice Due Process of Law, by Isidore Starr, West Publishing Co., St. Paul, MN.

Beyond a Reasonable Doubt, Inside the American Jury System, by Melvyn B. Zerman, Thomas Y. Crowell. Harper and Row, New York, NY.

The American Jury by Harry Kalven and Hans Zeisel. Little Brown and Co., Boston, MA.

The Psychology of the Courtroom, by Norbert Keer and Robert Bray. Academic Press, New York, NY.

The Jury: Its Role in American Society, by Rita Simon. Lexington Books, Lexington, MA.

The Jury: Tool of Kings, Palladium of Liberty, by Lloyd Moore. W. H. Anderson, Co., Cincinnati, OH.

Jury Verdicts, by Michael Saks. Lexington Books, Lexington, MA.

Justice and Juries in Colonial America. Arno Press, New York, NY.

Verdict: The Jury System, by Morris J. Bloomstein. Dodd, Mead Co., New York, NY.

Building Bridges to the Law. American Bar Association, Special Committee on Youth Education for Citizenship, Chicago, IL.

Social Psychology in Court, by Michael Saks and Reid Hastie. Van Nostrand Reinhold Co., New York, NY.

Magazine Articles and Reports

Annual Report of the Administrative Office of the Courts: North Carolina Courts, 1981-82, Raleigh, NC.

The American Jury System: Final Report, Annual Chief Justice Earl Warren Conference on Advocacy in the United States. The Roscoe Pound-American Trial Lawyers Foundation, Cambridge, MA.

"The American Jury," edited by Margorie S. Schultz. Law & Contemporary Problems, Vol. 43, #4, Autumn, 1980. Duke University School of Law, Durham, NC.

"People Power in the Courts," by Julie F. Van Camp. Update on Law-Related Education, Winter, 1982, pg. 12., American Bar Association Special Committee on Youth Education for Citizenship, Chicago, IL.

"We, the jury find the . . ." by O. Friedrick & E. Thomas. Time, September 28, 1981, pg. 44.

"The Juror as Celebrity," by B. H. Beach. Time, August 16, 1982, pg. 42.

"Is Our Jury System Working?", by W. E. Burger. Reader's Digest, February, 1981, pg. 118.

"Trial By Teens," by K. Minton. McCalls, May, 1981, pg. 40.

"Jury System Not Perfect, But It Works," U.S. News & World Report, November 1982, pg. 45.

"Putting Juries on the Couch," by Morton Hunt. New York Times Magazine, November 28, 1982, pg. 70.

Games

Jury Game: A Simulation of the Jury Selection Process. Social Studies School Services, Culver City, CA.

Editor's Note: These resources were used in connection with research conducted in the preparation of this Teaching Guide and were located in the Winston-Salem Public Library and the Wake Forest University School of Law Library. If you have difficulty locating these resources in your community, please put your request in writing and mail to: The Administrative Office of the Courts, c/o Jury Education Program, P. O. Box 2448, Raleigh, N.C. 27602.

TIPS FOR RESOURCE PERSONS*

I. What the teacher should tell you:

a. The topic you are to address.
b. The age, grade, number and ability of students.
c. The students' background in this subject.
d. Time of the class, suggested dates for presentation, length of time and classroom availability to you.
e. When confirming the visit inquire about parking facilities, classroom location and the phone number where the teacher can be reached if you should cancel.

II. What you should tell the teacher:

a. The specific time and date you can visit the class.
b. The subject on which you will speak.
c. Type of presentation and special needs (e.g. room, seating, arrangements, props, advance preparation for students and whether or not you will supply handouts, etc.)

III. Consider various modes of presentation, you might consult with the teacher for suggestions.

a. Informal lecture with question and answer period.
b. Slides/movie.
c. Role-playing/simulation games/mock trial.
c. Problem-solving for students.
c. Field trips.
f. Panel of guests or students with moderator.

IV. Keep in mind the following:

a. Try to involve the students.
b. Use examples or situations familiar to students in making your point.
c. Have a clear idea of what you're trying to assert and be prepared to be challenged.
d. Suggest ways for interested students to follow up on your presentation at school, within the community or on an individual study basis.
e. Be natural and relate to the students on their level. Avoid jargon.

*Utah Law-Related Education Project: 1979